

FEDERAL ELECTION COMMISSION

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In the matter of:

Newton L. Gingrich  
Callista Gingrich  
Newt 2012, Inc. and Lisa Lisker, in her  
capacity as Treasurer of Newt 2012, Inc.  
Gingrich Productions, Inc.

MUR No. 6518

AMENDED COMPLAINT

1. Citizens for Responsibility and Ethics in Washington ("CREW") and Noah Bookbinder bring this complaint before the Federal Election Commission ("FEC") seeking an immediate investigation and enforcement action against Newton L. Gingrich, Callista Gingrich, Newt 2012, Inc., and Gingrich Productions, Inc. for direct and serious violations of the Federal Election Campaign Act ("FECA").

Complainants

2. Complainant CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the right of citizens to be informed about the activities of government officials and to ensuring the integrity of government officials. CREW is dedicated to empowering citizens to have an influential voice in government decisions and in the governmental decision-making process. CREW uses a combination of research, litigation, and advocacy to advance its mission.

3. In furtherance of its mission, CREW seeks to expose unethical and illegal conduct of those involved in government. One way CREW does this is by educating citizens regarding the integrity of the electoral process and our system of government. Toward this end, CREW monitors the campaign finance activities of those who run for federal office and publicizes those

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who violate federal campaign finance laws. Through its website, press releases and other methods of distribution, CREW also files complaints with the FEC when it discovers violations of the FECA. Publicizing campaign finance violators and filing complaints with the FEC serves CREW's mission of keeping the public informed about individuals and entities that violate campaign finance laws and deterring future violations of campaign finance law.

4. In order to assess whether an individual, candidate, political committee or other regulated entity is complying with federal campaign finance law, CREW needs the information contained in receipts and disbursements reports that political committees must file pursuant to the FECA, 2 U.S.C. § 434(a)(2); 11 C.F.R. § 104.1. CREW is hindered in its programmatic activity when an individual, candidate, political committee or other regulated entity fails to disclose campaign finance information in reports of receipts and disbursements required by the FECA.

5. CREW relies on the FEC's proper administration of the FECA's reporting requirements because the FECA-mandated reports of receipts and disbursements are the only source of information CREW can use to determine if a candidate, political committee or other regulated entity is complying with the FECA. The proper administration of the FECA's reporting requirements includes mandating that all reports of receipts and disbursements required by the FECA are properly and timely filed with the FEC. CREW is hindered in its programmatic activity when the FEC fails to properly administer the FECA's reporting requirements.

6. Complainant Noah Bookbinder is the executive director of Citizens for Responsibility and Ethics in Washington. At all times relevant to the complaint, he has been and remains a citizen of the United States and a registered voter and resident of Maryland. As a registered voter, Mr. Bookbinder is entitled to receive information contained in reports of

receipts and disbursements required by the FECA, 2 U.S.C. § 434(a)(2); 11 C.F.R. § 104.1.

Mr. Bookbinder is harmed when a candidate, political committee or other regulated entity fails to report campaign finance activity as required by the FECA. *See FEC v. Akins*, 524 U.S. 11, 19 (1998), *quoting Buckley v. Valeo*, 424 U.S. 1, 66-67 (1976) (political committees must disclose contributors and disbursements to help voters understand who provides which candidates with financial support). Mr. Bookbinder is further harmed when the FEC fails to properly administer the FECA's reporting requirements, limiting his ability to review campaign finance information.

#### Respondents

7. Newton L. Gingrich (hereinafter "Newt Gingrich") is a candidate for the Republican nomination to be President of the United States and the former Chief Executive Officer of Gingrich Productions, Inc.

8. Callista Gingrich is the wife of Newt Gingrich and the current Chief Executive Officer of Gingrich Productions, Inc.

9. Newt 2012, Inc. is a Georgia non-profit corporation and the principal campaign committee of Newt Gingrich.

10. Lisa Lisker is the Treasurer of Newt 2012, Inc.

11. Gingrich Productions, Inc. is a Georgia for-profit corporation that sells books authored by Newt and Callista Gingrich.

#### Factual Allegations

12. During the first week of March 2011, Newt Gingrich began accepting contributions to test the waters for a potential presidential campaign. *See, e.g.*, Newt 2012, 2011 July 15th Quarterly Report at 15 (attached as Exhibit 1).

13. On April 19, 2011, Gingrich Holdings, Inc. filed its 2011 annual corporate registration with the Office of the Secretary of State of Georgia indicating that Newt Gingrich was the Chief Executive Officer of Gingrich Holdings, Inc. (attached as Exhibit 2).

14. On May 10, 2011, Gingrich Holdings, Inc. changed its name to Gingrich Productions, Inc. The Articles of Amendment to the Articles of Incorporation of Gingrich Holdings, Inc. were signed by Callista Gingrich in her new capacity as Chief Executive Officer of Gingrich Productions (attached as Exhibit 3).

15. On May 11, 2011, Newt 2012, Inc. was incorporated as a Georgia non-profit corporation. See Articles of Incorporation of Newt 2012, Inc. (attached as Exhibit 4).

16. On May 12, 2011, Newt 2012, Inc. filed its 2011 annual corporate registration with the Office of the Secretary of State of Georgia (attached as Exhibit 5).

17. On May 13, 2011, Newt Gingrich filed a Statement of Candidacy to seek the office of President of the United States with the Federal Election Commission (attached as Exhibit 6).

18. On May 13, 2011, Newt 2012, Inc. filed a Statement of Organization with the Federal Election Commission indicating that it was the principal campaign committee of Newt Gingrich (attached as Exhibit 7).

19. On July 14, 2011, Newt Gingrich filed a Public Financial Disclosure Report with the Federal Election Commission (attached as Exhibit 8). The Public Financial Disclosure Report discloses, among other things, the assets owned by Newt Gingrich during the period beginning on January 1, 2010 and ending on July 14, 2011, the date the report was filed with the Commission.

20. On December 6, 2011, the Washington Post reported that Newt 2012, Inc. had paid Newt Gingrich \$42,000 during the third quarter of 2011 for the cost of the candidate's personal mailing list, which the candidate had sold to the campaign in the second quarter of 2011. See Dan Eggen, Gingrich Fighting Massive Debt Racked Up In Campaign's Extravagant Early Days, *Washington Post* (Dec. 6, 2011) (attached as Exhibit 9). Newt 2012, Inc. had reported incurring a debt of \$47,005 to Newt Gingrich for "Direct Mail List/Travel" on its 2011 July 15th Quarterly Report. See Exhibit 1 at 689. The \$42,000 payment to Newt Gingrich was not reported on the campaign committee's October 15th Quarterly Report. Campaign spokesman R.C Hammond conceded that the campaign had failed to disclose the \$42,000 payment to Newt Gingrich as required by the Federal Election Campaign Act. See Exhibit 9.

21. The Public Financial Disclosure Report signed and filed by Newt Gingrich does not include among the list of his assets a mailing list worth \$42,000. See Exhibit 8. Accordingly, there is no evidence to support the claim that Newt Gingrich personally owned the mailing list that was sold to Newt 2012, Inc. at some point during the second quarter of 2011. Accordingly, it appears that the mailing list sold to Newt 2012, Inc. during the second quarter of 2011 belonged not to Newt Gingrich personally, but to Gingrich Productions, Inc.

22. On December 8, 2011, the Washington Post reported that Newt 2012, Inc. and Gingrich Productions, Inc. routinely hold dual purpose events to promote the presidential candidacy of Newt Gingrich and to sell books authored by Newt Gingrich and his wife, Callista Gingrich. See Amy Gardner, Gingrich's Book-Selling Efforts Test Law, *Washington Post* (Dec. 8, 2011) (attached as Exhibit 10). The article notes that federal law prohibits candidates from using campaign resources to profit personally or from using corporate funds to subsidize a campaign. "Adhering to the law is tricky: In that Naples ballroom, assistants from the campaign

and the business mingled to manage the crowd and the candidate. . . . The extent to which Gingrich Productions helps Gingrich for President [*i.e.*, Newt 2012, Inc.] – and vice versa – is obvious on the road. The Gingriches collect signatures of *people waiting to have their books signed*, and those names are funneled into his political mailing list.” *Id.* (emphasis added).<sup>1</sup> Accordingly, it appears that Gingrich Productions may be providing a valuable benefit to Newt 2012, Inc. by collecting contact information from potential donors and providing that information to Newt 2012, Inc.

23. The New York Times has also reported on the dual purpose events staged by Newt 2012, Inc. and Gingrich Productions. See Trip Gabriel, Gingrich, Ahead in Polls, Is Still Selling Books, *New York Times* (Dec. 8, 2011) (attached as Exhibit 11). It appears that many individuals purchasing books at these dual purpose events are under the impression that they are making a contribution to Newt 2012, Inc. when they do so. “Although some buyers are under the impression that sales of their books, like T-shirts or coffee mugs, support the campaign, the proceeds go to the Gingriches personally, even as the campaign is scrambling to pay off debt and raise enough money to run an ambitious national operation.” *Id.*

#### COUNT I

24. FECA and FEC regulations prohibit corporations from making contributions in connection with any federal election. 2 U.S.C. § 441b(a) and 11 C.F.R. § 114.2(a). This prohibition includes the provision of any goods or services without charge or at a charge that is less than the usual and normal charge for such goods and services. “Examples of such goods or services include, but are not limited to: Securities, facilities, equipment, supplies, personnel,

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<sup>1</sup> For unknown reasons, a subsequent version of the article revised this sentence to state: “The Gingriches collect signatures for the political campaign in the same places where they sign books.”

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advertising services, membership lists, and mailing lists.” 11 C.F.R. § 100.52(d)(1). Gingrich Productions’ organization of the dual purpose events involved expenditures for facilities, equipment, supplies, personnel and advertising services. The participation of Newt 2012, Inc. in these events allowed the campaign committee to take advantage of the expenses borne by Gingrich Productions, Inc. The Federal Election Commission has held that a candidate could not hold a dual purpose event for fundraising and the promotion of a candidate’s book because the publisher’s payment of the cost of the event would constitute a prohibited corporate contribution by the publisher to the candidate. Advisory Opinion 1982-16 (Green); *but cf.* Advisory Opinion 2011-02 (Brown) (Commission could not approve a response as to whether a candidate could collect email address of people attending the candidate’s book signing and promotional events for the purpose of soliciting contributions in the future).

25. On information and belief, Gingrich Productions, Inc., by using corporate funds to pay for a portion of the expenses of dual purpose events promoting the candidacy of Newt Gingrich while also promoting the sale of books by Newt Gingrich and by collecting the email addresses of people attending the dual purpose events for the purpose of soliciting contributions to Newt 2012, Inc, in the future, violated both 2 U.S.C. § 441b(a) and 11 C.F.R. § 114.2(a).

#### COUNT II

26. FEC regulations prohibit corporate officers from facilitating the making of contributions to candidates for federal office. 11 C.F.R. § 114.2(f). Facilitation is defined as using corporate resources or facilities to engage in fundraising activities in connection with any federal election. 11 C.F.R. § 114.2(f)(1). Examples of facilitation include using a list of corporate customers to solicit contributions to a candidate for federal office. 11 C.F.R. § 114.2(f)(2)(i)(C).

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27. On information and belief, Newt Gingrich and/or Callista Gingrich, in their capacities as Chief Executive Officer of Gingrich Productions, Inc., authorized the transfer of a mailing list owned by Gingrich Productions, Inc. to Newt 2012, Inc. in the second quarter of 2011 and/or authorized the use of corporate funds to pay for the collection of email addresses of Gingrich Productions, Inc. customers at dual events promoting the candidacy of Newt Gingrich and the sale of books by Gingrich Productions, Inc. for the purpose of soliciting contributions to Newt 2012, Inc. in the future and thereby violated 11 C.F.R. § 114.2(f).

COUNT III

28. FECA and FEC regulations prohibit the conversion of campaign funds by any person to personal use. 2 U.S.C. § 439a(b)(1) and 11 C.F.R. §§ 113.1(g) & 113.2(e).

29. On information and belief, Newt Gingrich accepted payment of \$42,000 in campaign funds from Newt 2012, Inc. for the use of a mailing list that belonged to Gingrich Productions, Inc. in violation of 2 U.S.C. § 439a(b)(1) and 11 C.F.R. §§ 113.1(g) & 113.2(e).

COUNT IV

30. FECA and FEC regulations require the principal campaign committee of a candidate for federal office to report all disbursements. 2 U.S.C. § 434(b)(4) and 11 C.F.R. § 104.9.

31. By failing to report a disbursement of \$42,000 to Newt Gingrich for the purchase of a mailing list, Newt 2012, Inc. and Lisa Lisker, in her capacity as Treasurer of Newt 2012, Inc., violated both 2 U.S.C. § 434(b)(4) and 11 C.F.R. § 104.9.



## CONCLUSION

WHEREFORE, Citizens for Responsibility and Ethics in Washington and Noah Bookbinder request that the Federal Election Commission conduct an investigation into these allegations, declare the respondents to have violated the Federal Election Campaign Act and applicable FEC regulations, and order respondents to correct these violations by, among other things, filing the appropriate disclosure reports to disclose the disbursement of \$42,000 to Newt Gingrich. In addition, the complainants request that the FEC impose sanctions appropriate to these violations and take such further action as may be appropriate, including referring this case to the Department of Justice for criminal prosecution of any violations of 2 U.S.C. § 441b(a).



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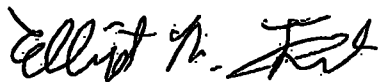
VERIFICATION

Citizens for Responsibility and Ethics in Washington and Noah Bookbinder verify that the statements made in the attached Complaint are, upon information and belief, true. Sworn pursuant to 18 U.S.C. § 1001.

  
Noah Bookbinder



Sworn to and subscribed before me this 18th day of November 2015.

  
Notary Public